



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
ADOPTION CAUSE NO. 16 OF 2020
IN THE MATTER OF THE CHILDREN'S ACT NO. 8 OF 2011
IN THE MATTER OF AN APPLICATION FOR THE ADOPTION OF BABY I

BY

J K M AND L N N (APPLICANTS)

JUDGMENT

1. The Applicants J K M and LNK are in a monogamous marriage which was solemnized at Nairobi on 1st December, 2001 as evinced in their Certificate of Marriage Serial No. XXXXX. They have one child aged 11 year whom they adopted and wish to adopt a male child known as Baby I through the originating summons dated 16th December, 2019.
2. From the pleadings, the court gathers that the applicant JKM is a self-employed businessman and LNK is a teacher employed by the Teachers Service Commission in Naivasha. They reside in Naivasha within Nakuru County and both profess the Christian faith.
3. The records before the court indicate that the minor was born on 28th August 2016 in Ngano as evinced by the birth certificate serial number XXXXX. He was found abandoned at [particulars withheld] Area in Nyahururu and was rescued by a Good Samaritan. The matter was reported at Ngano Police Post where it was booked as OB No. XXXXX 2016. On 30th August, 2016 the child was admitted at Nyahururu referral Hospital for medical evaluation.
4. On 21st September, 2016 the Resident Magistrate sitting in Nyahururu vide P & C No. XXX of 2016 committed the child to Nest Children's Home. On 25th May, 2017 Ngano Police Station issued a final letter in which they confirmed that the biological parents of the child could not be traced, nor did anyone come forward to claim the child. On 14th August, 2017 the Applicants took the child in for foster care with a view of adopting. A foster care agreement was signed on the same day.
5. Prior to the hearing of the adoption application, Little Angels Network prepared and filed a report dated 17th March, 2017 declaring the child free for adoption. The guardian ad litem Paul Mwangi Gitau filed a report dated 12th July, 2021 which was favourable and recommended the adoption of the child by the Applicants.
6. An officer from the office of the Director of Children Services conducted home visits and established that the applicants are financially and emotionally capable of providing for the upkeep and education of the child. She filed a report dated 30th March 2021 recommending the adoption for reasons that the child stands to gain from the opportunities provided by becoming a child of the Applicants. That he will gain a family and grow up in a stable home. The Applicants were found to have fulfilled the statutory requirements for adoption.
7. This is a local adoption and from the record the Applicants have fulfilled all the legal requirements relating to the adoption of the child. The consent of the biological parents was dispensed with since the child was abandoned at infancy and the parents could not be traced to give the consent. The child who is now almost 5 years old was present in court during the virtual hearing. He appeared lively and interacted well with the Applicants, with whom they appeared to have bonded well.
8. I also note that the 1st applicant was born in 1967 and is 54 years old while the 2nd applicant was born in 1975 and is 45 years old. They are therefore within the age limit eligible to adopt being adults having attained the age of twenty-five years and are at least twenty-one years older than the child, but have not attained the age of sixty-five years as provided by **Section 158 (1) (a)** of the Children's Act No. 8 of 2011.
9. From the foregoing, this court is of the considered view that it is in the best interest of the child to be adopted by the Applicants. Reasons

wherefore, I allow the prayers sought in the Originating Summons dated 16th December, 2019 as follows:

- i. The Applicants JKM and LNK be and are hereby allowed to adopt **Baby I** who shall henceforth be known as **S G K K**.
- ii. His date of birth is 28th August 2016 as evinced by the birth certificate serial number XXXXXXX.
- iii. David Ng'ang'a Muriithi and Susan Njoki Ng'ang'a are hereby appointed as the legal guardians in the event that the Applicants die, or are incapacitated by ill health.
- iv. The Registrar General is directed to enter this Order in the Adopted Children's Register.
- v. The Director of Immigration is hereby authorised to issue the child with a Kenyan Passport.
- vi. The guardian ad litem is hereby discharged.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 29TH DAY OF JULY, 2021

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L. A. ACHODE

HIGH COURT JUDGE

In the presence of.....Advocate for the Applicants